

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

UNITED STATES OF AMERICA		DOCKET NO. 1:12CR119
		MARCH 5, 2014
VS.		10:46 A.M.
VICKI STARK-FITTS (4)		BEAUMONT, TEXAS

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VOLUME 1 OF 1, PAGES 1 THROUGH 19

REPORTER'S TRANSCRIPT OF SENTENCING HEARING

BEFORE THE HONORABLE MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

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PROCEEDINGS REPORTED USING COMPUTERIZED STENOTYPE;  
TRANSCRIPT PRODUCED VIA COMPUTER-AIDED TRANSCRIPTION.

1 [OPEN COURT, DEFENDANT PRESENT.]

2 THE COURT: This is Case No. 1:12CR119,  
3 Defendant 4, *United States of America versus Vicki*  
4 *Stark-Fitts*.

5 Are you ready to proceed?

6 MR. ROSS: Good morning, your Honor. I'm John  
7 Ross. I represent the USA, and we are ready to proceed  
8 with the sentencing hearing.

9 MR. ROSEN: Good morning, judge. Good to see  
10 you again. Steven Rosen for Vicki Fitts, and we are  
11 ready to move forward.

12 THE COURT: All right. Please come forward.  
13 Have counsel and defendant read and discussed  
14 the presentence report, including any revisions?

15 MR. ROSEN: We have, your Honor.

16 THE COURT: Has counsel fully explained the  
17 report to the defendant?

18 MR. ROSEN: I have, your Honor.

19 THE COURT: And, Ms. Stark-Fitts, do you fully  
20 understand the presentence report?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Does counsel or defendant wish to  
23 make any comments, additions, or corrections to the  
24 report, aside from your objections?

25 MR. ROSEN: We do not, your Honor.

1 THE COURT: And, Ms. Stark-Fitts, does the  
2 report adequately cover your background?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Has the government read the  
5 report; and does it wish to make any comments, additions,  
6 or corrections?

7 MR. ROSS: The government has, your Honor; and  
8 we do not, your Honor.

9 THE COURT: All right. If you wish to address  
10 your objections at this time, then.

11 MR. ROSEN: Your Honor, I'll let my objections  
12 stand for themselves on the report.

13 THE COURT: Well, why don't you remind me what  
14 they are.

15 MR. ROSEN: Okay. Well, there's one issue --  
16 and that's really the one issue -- is Ms. Fitts had pled  
17 guilty to a federal gun count and she was under the  
18 understanding, the comprehension that it would never be  
19 used against her; and that was done orally. And we  
20 brought that to Mr. Ross' attention; and that's the only  
21 thing that we really have to argue, judge.

22 THE COURT: Well, the Objection 1 talks about  
23 no evidence that she provided guns used by Sedtal to  
24 shoot and wound an associate of the Aryan Brotherhood. I  
25 think in the factual basis she admits that.

1 MR. ROSEN: Yes.

2 THE COURT: That objection is overruled.

3 The other one has to do with she wants --  
4 claiming her participation was minimal and she wants a  
5 role reduction. Seems to me, looking at this case, she  
6 was right in the thick of everything in all these  
7 different activities that were happening over a period of  
8 time, from drug trafficking to providing guns to these  
9 people and then kind of setting up this hit and like  
10 concealing the body and then fleeing to Arlington. It's  
11 just -- it seems like she wasn't entitled to a mitigating  
12 role adjustment. So, that objection is overruled.

13 All right. Then there's the objection that  
14 she was assessed three points for prior conviction for  
15 felon in possession of a firearm.

16 And is that what you're complaining about now?

17 MR. ROSEN: Yes, your Honor.

18 THE COURT: Okay. Do you want to address  
19 that?

20 MR. ROSS: May I ask the probation department:  
21 Does that change the guidelines in any way if that were  
22 true?

23 PROBATION OFFICER: We don't know of any  
24 authority that the guidelines gives us not to assess  
25 criminal history points for prior conviction.

1           MR. ROSS: Okay. And, your Honor, the  
2 government has reviewed the probation officer's responses  
3 to the objections; and we stand with her on those  
4 responses.

5           THE COURT: Well, this conviction is for a  
6 RICO, murder and distribution of methamphetamine; and  
7 that -- I think that was an unrelated gun charge, as I  
8 recall.

9           MR. ROSEN: Correct, yes.

10          THE COURT: It was a different gun. So, I  
11 don't think that that should be the same thing. I mean,  
12 I think you should get criminal history points for that  
13 because it was a separate deal. It's not subsumed within  
14 this activity.

15          MR. ROSEN: I'm just pointing that out, judge,  
16 because Ms. Fitts wanted me to make it known that that's  
17 what was done orally, not in writing; and I said I would  
18 to the court.

19          THE COURT: So, I don't see anything that  
20 shows the case.

21          MR. ROSEN: Right. There's nothing in  
22 writing.

23          THE COURT: I mean, she wasn't exactly charged  
24 in this case with that; but that doesn't mean you can't  
25 use it for criminal history points for prior conviction.

1 I think that would be appropriate.

2 MR. ROSEN: Yes, your Honor.

3 THE COURT: So, that objection is overruled.

4 Okay. To the extent the court previously  
5 deferred acceptance of the plea agreement, it is now  
6 accepted.

7 The court finds that the information contained  
8 in the presentence report has sufficient indicia of  
9 reliability to support its probable accuracy.

10 The court adopts the factual findings,  
11 undisputed facts, and guideline applications in the  
12 presentence report. Based upon a preponderance of the  
13 evidence presented and the facts in the report, while  
14 viewing the Sentencing Guidelines as advisory, the court  
15 concludes that the total offense level is 40, the  
16 criminal history level is III, which provides for an  
17 advisory guideline range of 360 months to life.

18 Does defendant's counsel wish to make any  
19 remarks on behalf of the defendant?

20 MR. ROSEN: I would, your Honor.

21 THE COURT: Okay. Go ahead.

22 MR. ROSEN: May I proceed, judge?

23 THE COURT: Yes.

24 MR. ROSEN: Thank you for allowing me to speak  
25 in front of this court and ladies and gentlemen in the

1 courtroom and officers of the court.

2 THE COURT: Let me also point out if the  
3 objection was sustained about this criminal history,  
4 which would have put her at 40, criminal history II, that  
5 would have been a guideline range of 324 to 405 months.

6 MR. ROSEN: Yes, your Honor.

7 THE COURT: She is going to be sentenced  
8 within that same guideline range; so, it shouldn't  
9 matter.

10 MR. ROSEN: Thank you. Yes, your Honor.

11 THE COURT: Okay. Go ahead.

12 MR. ROSEN: I've come to know this young lady,  
13 judge. She has been incarcerated for I think the last  
14 three years and because -- on this case the past -- since  
15 January of 2013. And I, who have been practicing law for  
16 32 years now, working on 33, you try to personalize your  
17 client the best you can. You try to learn about them,  
18 feel them, sense them, touch them.

19 Vicki Fitts did a horrible thing, judge. She  
20 took the life of another human being. How, why, where,  
21 when? How does a young lady who marries the love of her  
22 life, gives birth to three children, who is going to be  
23 50 years old next week, how in this period of time did  
24 she allow herself to get into a position where you can't  
25 say no, where you can't stop it, where you just lose

1 control of your life?

2 And it's hard coming in as a lawyer to argue  
3 in front of a learned judge. I have known you for a long  
4 time; and you've seen it, you've heard it, you've watched  
5 it. Not all, but we're always learning; and I respect  
6 that. I'm asking you to rip down that rearview mirror.  
7 She came in here and accepted responsibility. She is  
8 guilty of murder. What do you do now?

9 Can you show an individual who says in open  
10 court that she is guilty of murder compassion? Can you  
11 show her the ability, ma'am, you're going to spend a long  
12 time, maybe the rest of your life, maybe 30 years in a  
13 jail cell; do I trust you where maybe you can help the  
14 next young lady that comes into a jail cell that comes in  
15 and says the right word about drinking, about alcohol,  
16 about men, about learning how to educate yourself?

17 I believe that Vicki Fitts has that ability,  
18 judge. I really do. And I'm asking this court --  
19 because I'm going to shut up and let her speak to you  
20 because that's what's important. I have watched life and  
21 death, judge; and if I choke up, it's because I feel it.  
22 The last two years my wife has gone through a terrible  
23 bout with cancer. I've been at M.D. Anderson. And  
24 please don't feel sorry for me, for my wife. She is  
25 doing fine physically. I have watched life and death,



1 and my wife thinks I have been traumatized. I don't  
2 know. I love life. I appreciate life. I love to laugh.  
3 I love to make people laugh. I love to approach people.  
4 And it hurts when you come back two weeks later and  
5 they're not there. And I'm having a difficult time with  
6 this because a young man's life was taken and Vicki Fitts  
7 was part of it. And I say how can I stand in front of  
8 this judge and talk about life and death and freedom and  
9 joy and peace when I'm going through what I'm going  
10 through now? You get a new appreciation for life.

11 This is life. I'm asking this court, based on  
12 their experience and their knowledge and their process in  
13 life, to give this young lady who has a lovely daughter  
14 who just gave, lucky enough, birth to a child, let her  
15 have that hope that maybe one day she can be free. Have  
16 that ray of hope when she looks outside that there's a  
17 hope, that a judge in Beaumont, Texas, believed in me  
18 now. She's changed her life, judge; and hopefully it's  
19 to the better. Thank you for allowing me to talk to you.

20 THE COURT: All right. Does the defendant  
21 wish to make a statement?

22 THE DEFENDANT: Yes, ma'am. I think what went  
23 wrong with me is in 2002 my son was killed in front of  
24 me, my dad died, my baby brother dropped dead, my best  
25 friend and my son's father dropped dead, and I just -- I

1 didn't want to leave the house. I wanted nobody to keep  
2 my daughter. And eventually I started using drugs, and  
3 then I started selling drugs. And I know that was a  
4 horrible mistake. I should have never done it, but I  
5 didn't -- I don't know. I was just very depressed and  
6 paranoid. And I should have never allowed people around  
7 me like I did and hung out with, and I should have  
8 stopped that murder. I wish to God I would have.

9           Every night I lay in bed, and I wish I could  
10 trade places with "Lil Bit." He was my friend. And I  
11 pray for his family every night because I know what it  
12 feels like to lose a young son like that. And I have  
13 great remorse. I really do. I wish I could change  
14 things, but I can't. But I do help young girls when they  
15 come in the cell, and I tell them -- talk to them about  
16 drugs and alcohol and gangs and just life in general, try  
17 to get them on the right path because they can end up  
18 like me so very easily.

19           And I just -- I have a new grandbaby; and I  
20 just hope and pray to God that you can find it in your  
21 heart to give me a chance to do different, a second  
22 chance, and not make me spend the rest of my life in  
23 prison. And I'm sorry I didn't stop them from  
24 murdering -- for that murder. I would change it if I  
25 could. I really would. And I'm sorry. I am truly sorry

1 to him and his family and to the population in general.  
2 It's not right to take a life. I know what it feels like  
3 to have someone take somebody's life that you love, and  
4 it's not -- it's the worst, worst pain you can ever feel;  
5 and I'm just really truly sorry that I was any part of  
6 it. Thank you.

7 THE COURT: All right. Thank you.

8 Does the attorney for the government wish to  
9 make any remarks?

10 MR. ROSS: Yes, your Honor. First, in  
11 response to the allocution by Ms. Fitts, your Honor, I  
12 suggest to the court, with respect to Ms. Fitts, that  
13 they're crocodile tears that she is bringing to the court  
14 today and I submit to the court they're not sincerely  
15 felt.

16 Your Honor, the question before the court  
17 today in this sentencing is simply this, your Honor:  
18 Does Vicki Fitts deserve less of a sentence than her  
19 co-defendants, Tanner Bourque, Chris Guidry, and Kenny  
20 Stanley? And I submit to the court she doesn't.

21 The court has alluded in the court's comments  
22 that she may indeed receive a sentence less than life  
23 today; but I submit to the court, your Honor, that she  
24 does not deserve less of a sentence than those young men.

25 The reason is this -- or the reasons: No. 1,

1 if you overlay the factual basis for Ms. Fitts over the  
2 factual basis for the other men, it's identical. The  
3 only thing different about Ms. Fitts' case versus their  
4 cases is that she was not a patched-in member of SWS.  
5 So, the element was lacking as to Ms. Fitts that she  
6 actually committed this murder in furtherance of that  
7 enterprise. That's the only difference.

8 Now, I'll submit to the court's consideration  
9 this point. Methamphetamine trafficking is the essence,  
10 the stock and trade, of this organization. It's not  
11 their beliefs or their patches that they wear. And this  
12 court well knows who is in charge in a drug distribution  
13 conspiracy. It's the supplier that's the shot caller.  
14 And in this case Vicki Fitts was that person to these  
15 young men. So, not only -- there's an argument to be  
16 made, your Honor, that she is more culpable than these  
17 individuals.

18 And that will conclude my statements to the  
19 court, your Honor. We'd ask the court to consider the  
20 most severe sentence possible.

21 I will add this, your Honor. There will be a  
22 time -- I do foresee a time for Ms. Fitts of a Rule 35  
23 motion in this case perhaps. We have ongoing meetings  
24 with Ms. Fitts, and that's known to the people that are  
25 in this courtroom. It's not a secret. There's two of

1 the four of them who are in the same position, and I  
2 foresee them -- with the exception of Tanner Bourque, I  
3 anticipate coming back to the court perhaps with a  
4 Rule 35 motion; but that time, your Honor, is not today.  
5 And I believe and submit to the court she ought to be  
6 every bit as responsible in terms of the sentence -- as  
7 should be reflected in her sentence, that she is no  
8 better than them in this. Thank you, your Honor.

9 THE COURT: All right. Does counsel know of  
10 any reason why sentence should not be imposed at this  
11 time?

12 MR. ROSEN: No, your Honor.

13 THE COURT: Pursuant to the Sentencing Reform  
14 Act of 1984 and having considered the factors noted in 18  
15 U.S.C., Section 3553(a) and after having consulted the  
16 advisory Sentencing Guidelines, it is the judgment of the  
17 court that the defendant, Vicki Stark-Fitts, is hereby  
18 committed to the custody of the Bureau of Prisons to be  
19 imprisoned for 378 months as to the single-count  
20 information. The sentence is within an advisory  
21 guideline range that's greater than 24 months; and the  
22 specific sentence is imposed after consideration of the  
23 factors set forth in 18 U.S.C., Section 3553(a).

24 The court recommends to the Bureau of Prisons  
25 that the defendant receive appropriate mental health

1 treatment while imprisoned.

2 The court recommends to the Bureau of Prisons  
3 that the defendant receive appropriate drug treatment  
4 while imprisoned.

5 The court finds the defendant does not have  
6 the ability to pay a fine. The court will waive the fine  
7 in this case.

8 It is ordered the defendant shall pay the  
9 United States a special assessment of \$100, which is due  
10 and payable immediately. Any and all financial penalties  
11 shall be made payable by cashier's check or money order  
12 made out to the United States District Court and  
13 forwarded to the Fine and Restitution Section, U.S.  
14 Courts, 1910 E. Southeast Loop 323, No. 287, Tyler, Texas  
15 75701.

16 Upon release from imprisonment, the defendant  
17 shall be on supervised release for a term of 5 years.  
18 Within 72 hours of release from the custody of the Bureau  
19 of Prisons, the defendant shall report in person to the  
20 probation office in the district to which the defendant  
21 is released.

22 While on supervised release, the defendant  
23 shall not commit another, federal, state, or local crime;  
24 shall comply with the standard conditions that have been  
25 adopted by this court; and shall comply with the

1 following additional conditions:

2 The defendant shall not possess a firearm,  
3 ammunition, destructive device, or any other dangerous  
4 weapon.

5 The defendant shall provide the probation  
6 officer with access to any requested financial  
7 information for purposes of monitoring defendant's  
8 sources of income.

9 The defendant shall be required to submit to a  
10 drug test within 15 days of release on supervised release  
11 and at least 2 periodic drug tests thereafter as directed  
12 by the probation officer.

13 The defendant shall participate in a program  
14 of testing and treatment for drug abuse under the  
15 guidance and direction of the United States Probation  
16 Office until such time as the defendant is released from  
17 the program by the probation officer.

18 The defendant shall pay any cost associated  
19 with treatment and testing.

20 Under the guidance and direction of the United  
21 States Probation Office, the defendant shall participate  
22 in a program of psychiatric and mental health services  
23 and shall comply with any medication requirements as  
24 prescribed by the treatment provider.

25 The defendant shall pay any cost associated

1 with treatment and testing.

2 The defendant shall cooperate in the  
3 collection of DNA as directed by the probation officer.

4 The court finds this to be a reasonable  
5 sentence in view of the nature and circumstances of the  
6 offense entailing the defendant's association with a  
7 racketeer influenced and corrupt organization (a white  
8 supremacist gang known as "Solid Wood Soldiers" or  
9 "Separate White State," "SWS" for short) that engaged in  
10 murder and the distribution of methamphetamine; her  
11 supplying members of the organization with crystal  
12 methamphetamine for distribution, as well as firearms;  
13 her participation in planning, providing transportation  
14 covering up, and fleeing the scene of the murder of  
15 another member of the gang; the subsequent discovery of  
16 loaded firearms in her residence and her vehicle; her  
17 criminal history including prior convictions for  
18 endangering a child, driving while intoxicated,  
19 possession of methamphetamine, theft of property, and  
20 felon in possession of a firearm; her mental health  
21 problems; and her history of substance abuse. It will  
22 serve as just punishment, promote respect for the law,  
23 and deter future violations of the law.

24 You have a right to appeal your conviction if  
25 you believe that your guilty plea was somehow unlawful or



1 involuntary or if there was some other fundamental defect  
2 in the proceedings that was not waived by your guilty  
3 plea. You have a statutory right to appeal your sentence  
4 under certain circumstances, particularly if you think  
5 the sentence is contrary to law. A defendant, however,  
6 may waive those rights as part of a plea agreement; and  
7 you've entered into a plea agreement which waives certain  
8 rights to appeal your conviction and sentence.

9           With the exception of the reservation of the  
10 right to appeal on specified grounds set forth in the  
11 plea agreement, you've waived any appeal, including  
12 collateral appeal, of any error which may have occurred  
13 surrounding the substance, procedure, or form of the  
14 conviction and sentence in this case. Such waivers are  
15 generally enforceable; but if you believe the waiver is  
16 unenforceable, you can present that theory to the  
17 Appellate Court.

18           With few exceptions, any notice of appeal must  
19 be filed within 14 days of judgment being entered in your  
20 case. If you're unable to pay the cost of an appeal, you  
21 may apply for leave to appeal *in forma pauperis*. If you  
22 so request, the clerk of the court will prepare and file  
23 a notice of appeal on your behalf.

24           The presentence report is made part of the  
25 record and is placed under seal except counsel for the

1 government and defense may have access to it for purposes  
2 of appeal.

3 Were there any other counts?

4 MR. ROSS: Yes, ma'am, your Honor. We will  
5 dismiss the remaining counts as they relate to Ms. Fitts.

6 THE COURT: She pled to an information. So,  
7 was there an indictment?

8 MR. ROSS: There is an indictment, your Honor.  
9 I believe the -- we will move to dismiss the remaining  
10 counts in any previous indictments in this case, your  
11 Honor, as they relate to Ms. Fitts.

12 THE COURT: All right. Very well.

13 The defendant is remanded to the custody of  
14 the United States Marshal and then to the custody of the  
15 United States Federal Bureau of Prisons to begin the  
16 service of sentence.

17 Is there a particular facility you wish to  
18 request?

19 MR. ROSEN: She would request College Station.

20 THE COURT: The Bryan facility?

21 MR. ROSEN: Yes, your Honor.

22 THE COURT: Okay. I'll recommend that. I  
23 just -- I'm not sure she would qualify for that.

24 MR. ROSEN: I'm not either.

25 THE COURT: With guns and such a long

1 sentence, I think Carswell might be a more appropriate  
2 destination.

3 MR. ROSEN: It's out of my hands, judge.

4 THE COURT: Okay. Well, I don't know if I can  
5 in good faith recommend Bryan, actually.

6 MR. ROSEN: Whatever you do, judge, we abide  
7 by. I understand.

8 THE COURT: Well, I mean, I think Carswell  
9 would be better than just no other place because at least  
10 it's in Texas where people could visit.

11 MR. ROSEN: Yes.

12 THE COURT: I think that's the appropriate  
13 destination.

14 MR. ROSEN: Okay.

15 THE COURT: All right. Thank you.

16 MR. ROSEN: Thank you, your Honor, for that.

17 THE COURT: All right. If there's nothing  
18 further, then you're excused.

19 MR. ROSEN: Thank you, judge, for hearing us.

20 (Proceedings concluded, 11:06 a.m.)

21

22 COURT REPORTER'S CERTIFICATION

23 I HEREBY CERTIFY THAT ON THIS DATE, JULY 7,  
24 2015, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE  
RECORD OF PROCEEDINGS.

25

/s/  
\_\_\_\_\_  
TONYA JACKSON, RPR-CRR